

RECEIPT \_\_\_\_\_  
 AMOUNT \$ 100-  
 SUMMONS ISSUED \_\_\_\_\_  
 LOCAL RULE 4.1 \_\_\_\_\_  
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 BY DPTY. CLK. \_\_\_\_\_  
 DATE 8-6-04

UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

Lynda Gauthier,

Plaintiff,

VS.

Ann M. Veneman,  
 Secretary, Department  
 of Agriculture,

Defendant.

CIVIL ACTION NO.

**04 - 11733 PBS**

MAGISTRATE JUDGE Alexander

**COMPLAINT AND JURY DEMAND**

**JURISDICTION**

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. section 1331, together with 42 U.S.C. sections 2000e-5 and 2000e-16. Specifically, this is a complaint stating a cause of action under Title VII of the Civil Rights Act of 1964, as amended, alleging discriminatory treatment of the plaintiff in her employment with the defendant on the basis of her gender.

Further, the complaint sets forth claims brought under the Rehabilitation Act of 1973, 29 USC 791, et seq. insofar as the plaintiff alleges that she suffered disability discrimination.

**VENUE**

2. The venue of this Court to entertain this cause of action is appropriate by virtue of 42 U.S.C. § 2000e-5(f) insofar as all of the actions central to this case occurred in this judicial district.

### **THE PARTIES**

3. The plaintiff, Lynda Gauthier, a female, resides in the Commonwealth of Massachusetts with a principal residence at 282 Glendale Road, in Northampton. At the time of the events central to her claims, she was employed by the United States Department of Agriculture as an Information Resource Manager, GS-12, with agency's Rural Development Office in Amherst, Massachusetts.

4. The United States Department of Agriculture (hereinafter "the agency") is an administrative agency of the United States Government with its principal offices in Washington, D.C. Ann Veneman is the Secretary of that agency and is named in her capacity as its head.

### **ADMINISTRATIVE PROCEEDINGS**

5. Within the time prescribed by law, on January 2, 2002, the plaintiff filed an administrative complaint of employment discrimination with the agency. On April 30, 2004, the agency issued its final decision relative to that complaint, finding that it had not discriminated against the plaintiff. Through its final decision, the agency provided the plaintiff with notice of her right to take her claims into federal court. The plaintiff has exhausted her administrative remedies with the agency insofar as the agency has issued its Final Decision denying her claims.

### **THE CONTROVERSY**

6. For her cause of action against Ann Veneman, in her capacity as Secretary of the agency, the plaintiff states as

follows:

7. That at all times relevant to this action, the plaintiff has been employed by the agency as an Information Resource Manager, GS-14, working from the agency's Rural Development Office in Amherst, Massachusetts.

8. From June of 1999 through October of 2001, the agency, through the plaintiff's managers, were aware that the plaintiff suffered from disabling conditions, including major depression, chronic fatigue, sleep disorders and anxiety, and was treating with her medical care providers concerning those illnesses.

9. The plaintiff requested accommodation from her managers relative to her disabilities beginning in April of 2001, including flexibility relative to her starting times and her continued participation in a Maxi-flex program used by the agency.

10. On September 13, 2001, the plaintiff's manager removed her from the Maxi-flex program. Her managers further failed to accommodate her actual and/or perceived disabilities by scrutinizing her arrival times, issuing discipline against her and harassing her to the point that she would break down in tears. Her manager's conduct was calculated to exacerbate her medical condition and represented a pattern of continuing and ongoing harassment of her.

11. Other employees were permitted to continue to participate in the Maxi-flex program, including those outside her protected category. Some were permitted to do so without any

medical condition and without the requirement that they submit documentation justifying such participation. The plaintiff, however, had that requirement imposed upon her.

### **CAUSES OF ACTION**

#### **COUNT I**

12. The plaintiff incorporates by reference the averments of paragraphs one through eleven as though fully set forth at length herein.

13. The defendant has acted in violation of Title VII of the 1964 Civil Rights Act insofar as she has unlawfully discriminated against the plaintiff on the basis of her gender.

14. As a direct and proximate result of such discrimination, the plaintiff has and continues to suffer damages, including, without limitation, economic damages and pain and suffering of mind and body.

#### **COUNT II**

15. The plaintiff incorporates by reference the averments of paragraphs one through eleven as though fully set forth at length herein.

16. The defendant has discriminated against the plaintiff on the basis of her actual and/or perceived disability.

17. As a direct and proximate result of such discrimination, the plaintiff has and continues to suffer damages, including, without limitation, economic damages and pain and suffering of mind and body.

**COUNT III**

18. The plaintiff incorporates by reference the averments of paragraphs one through eleven as though fully set forth at length herein.

19. The defendant's ongoing and continuous discriminatory conduct created a hostile work environment for the plaintiff.

20. As a direct and proximate result of such retaliatory conduct, the plaintiff has and continues to suffer damages, including, without limitation, economic damages and pain and suffering of mind and body.

**DEMAND FOR RELIEF**

21. The plaintiff respectfully demands the following relief from the defendant, Ann Veneman, in her capacity as the Secretary for the United States Department of Agriculture:

a. Enter a declaratory judgment determining that the plaintiff suffered discriminatory treatment as alleged in the above Counts I, II and III;

b. Award compensatory damages to the plaintiff under the Civil Rights Act of 1991;

c. Assess against the defendant, the costs and expenses incurred by the plaintiff in maintaining this proceeding, together with reasonable attorneys fees incurred by her in prosecuting the above-captioned case;

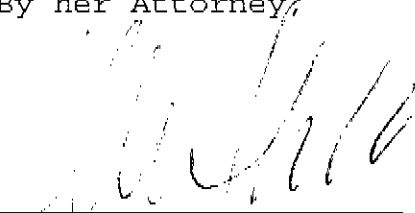
d. Any and all other relief to which the plaintiff may be entitled.

**JURY DEMAND**

The plaintiff demands trial by jury on all issues raised  
  
herein.

FOR THE PLAINTIFF

By her Attorney,

---

Waite P. Stuhl, Esq.  
6342 Waterman Ave.  
St. Louis, MO 63130  
(314) 726-1182  
(314) 863-1904 fax  
BBO # 548324

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

LYNDA GAUTHIER

## DEFENDANTS

ANN VENEMAN,  
Secy DEPT OF AGRICULTURE

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

WAITE P. STUHL  
6342 WATERMAN AVE  
ST. LOUIS, MO 63130

Attorneys (If Known)

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## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 111 U.S. Government Plaintiff ☐ 113 Federal Question (U.S. Government Not a Party) ☐
- ☒ 102 U.S. Government Defendant ☐ 104 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 DEF ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 DEF ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Bankruptcy <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fed. Deferral Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Force Issue <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 520 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 801 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

Do not cite federal statutory provisions unless diversity.)

29 USC 7912 Title VII - Federal Employee alleging employment discrimination  
FAILURE TO ACCOMMODATE

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

DATE 8/5/04  
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

APPLYING IFP

JUDGE

MAG. JUDGE

RECEIPT #

AMOUNT

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) LYNDA GAUTHIER v. ANN VEREMAN

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.☐ V. 150, 152, 153.

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3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

*1 party other than govt.*YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☒ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☒ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME WAITE P. STUHL  
ADDRESS 6342 WATERMAN AVE, ST. LOUIS, MO 63130  
TELEPHONE NO. (314) 726-1182 FAX (314) 863-1904